PCSMANTRA.COM

The judges' MoP: Supreme Court notice on the 11-year delay

News: 18 November 2026 | Published: 19 November 2026
Mains: General Studies Paper II (Constitution, judiciary, governance); Prelims: Judiciary, MoP, NJAC judgment 2015, RTI Act



Original symbolic illustration: pcsmantra.com

▼ **In this article**

- Why in the news
- What the MoP is
- From the 2015 order to now
- Demands of the petition
- What is new and what is old
- The way forward
- Prelims Practice Questions
- Mains Practice Question
- Frequently Asked Questions
- Sources

Why in the news

On 18 November 2026, the Supreme Court sought the Centre's response on the nearly 11-year delay in finalising the revised Memorandum of Procedure (MoP) governing the appointment of judges to the Supreme Court and the high courts. A bench of Justices M.M. Sundresh and P.B. Varale issued notice to the Union government and the Secretary General of the Supreme Court on a PIL by the NGO Lok Prahari, and permitted an amended petition. Senior Advocate Sanjay Hegde appeared for the petitioner. The petition's second major demand is new, that the minutes of the collegium meetings of the Supreme Court and the high courts be brought under the Right to Information Act, 2005.

What the MoP is

Introduction: The MoP is the written framework governing how judges of the Supreme Court and high courts are appointed, elevated and transferred, how the collegium's recommendation is initiated, how the government processes it, and how the final appointment is made.

Origin: The MoP was first drawn up in 1999, after the Second Judges Case (1993) established the primacy of the judiciary in appointments.

From the 2015 order to now

NJAC struck down: In October 2015, a five-judge Constitution Bench struck down the National Judicial Appointments Commission (NJAC) Act and the 99th Constitutional Amendment, retaining the collegium system.

The 16 December 2015 directions: Disposing of the matter, the bench directed that the existing MoP be supplemented and finalised by the Government of India in consultation with the CJI. It identified the areas for improvement: eligibility criteria, transparency in the selection process, a permanent secretariat, and a mechanism for complaints against prospective judges.

Eleven years on: With the government and the judiciary differing over certain provisions, the revised MoP remains unfinalised, the delay is the core of the petition.

> **Related reading:** Transparency in the Collegium: Reasons for Decisions and Public Trust

Demands of the petition

- **Timeline:** The CJI, on the administrative side, should make the necessary changes; the government should then finalise the revised MoP within one month.
- **RTI extension:** Collegium meeting minutes at both levels should be accessible under the RTI Act, 2005. This goes a step beyond the existing debate on reasoned recommendations, it seeks the minutes themselves, not just the reasons.
- **Further reforms:** Consideration of additional suggestions to improve transparency and objectivity in selection.

PCSMANTRA.COM

What is new and what is old

The older debate: The need for reasons in collegium recommendations and the limits of confidential deliberation, that question belongs to the institutional discussion of 1 August 2026 (see the earlier article).

The new turn: The question now is the unfinished state of the procedure itself, if the revised MoP has been pending for 11 years, the improvements fixed in 2015 (eligibility criteria, permanent secretariat, complaint mechanism) remain on paper. The RTI demand takes the accountability debate to the next level.

The way forward

Once the Centre replies, the bench's orders will show whether a timeline for finalising the MoP is fixed. The court's stance on the RTI demand will indicate where the boundary of transparency in judicial appointments is drawn. For examinations, the case connects the collegium debate, the NJAC judgment (2015) and accountability in governance.

Prelims Practice Questions

Question 1. With reference to the Memorandum of Procedure (MoP) for the appointment of judges, consider the following statements:

Statement 1: The MoP lays down the procedure for the appointment, elevation and transfer of judges in the higher judiciary.

Statement 2: In October 2015, the Supreme Court struck down the NJAC Act and the 99th Constitutional Amendment.

Which of the statements given above is/are correct?

(a) 1 only

(b) 2 only

(c) Both 1 and 2

(d) Neither 1 nor 2

▼ **Answer and Explanation**

Correct answer: (c)

Statement 1 is correct: The MoP lays down the procedure for the appointment, elevation and transfer of judges in the Supreme Court and the high courts.

Statement 2 is correct: In October 2015, the Supreme Court struck down the NJAC Act and the 99th Constitutional Amendment.

Question 2. Which of the following does the petition heard by the Supreme Court on 18 November 2026 seek?

(a) Bringing the minutes of the collegium meetings of the Supreme Court and the high courts under the Right to Information Act, 2005

(b) Re-establishing the NJAC

(c) Abolishing the transfer of judges entirely

(d) Extending the tenure of the Chief Justice of India

▼ **Answer and Explanation**

Correct answer: (a)

The petition seeks access to the minutes of the collegium meetings of the Supreme Court and the high courts under the RTI Act, 2005. This is a request by the petitioner, not a final ruling by the Court.

Mains Practice Question

"The 11-year delay over the revised MoP shows that institutional consensus is the hardest link in judicial-appointment reform." Comment with reference to the Supreme Court's directions of 16 December 2015. (250 words)

Answer Outline

Introduction:

Introduce the MoP and the notice issued on 18 November 2026.

Main Body:

The reform areas fixed in the 2015 directions (eligibility criteria, permanent secretariat, complaint mechanism, transparency); causes of the delay, government-judiciary differences and procedural complexity; the cost of delay, slower appointments and vacancies; the RTI demand as a new dimension of the accountability debate; its connection with the reasoned-recommendations debate discussed in the earlier article.

Conclusion:

The way out, a time-bound consultation process and publication of criteria; the balance of judicial independence and accountability.

Frequently Asked Questions (FAQ)

What was the composition of the NJAC?

Under the NJAC Act (in force from 13 April 2015), the Commission was to be chaired by the Chief Justice of India, with members: the two senior-most judges of the Supreme Court, the Union Minister of Law and Justice, and two eminent persons nominated by a committee of the Prime Minister, the CJI and the Leader of the Opposition in the Lok Sabha (or the leader of the single largest opposition party). For an inclusive composition, one eminent person had to be from the Scheduled Castes, Scheduled Tribes, Other Backward Classes, minorities or women. (Source: government release notifying the NJAC Act, https://www.pib.gov.in/newsite/printrelease.aspx?lang=2&reg=48&relid=118224)

Which judgments shaped the collegium system?

Three 'Judges Cases': the First Judges Case (S.P. Gupta v Union of India, 1981) accepted executive primacy in appointments; the Second Judges Case (1993) established the primacy of the CJI-led collegium, after which the MoP was drawn up in 1999; the Third Judges Case (the 1998 presidential reference) clarified the collegium's composition. The collegium system survived after the NJAC was struck down in October 2015.

Sources

- www.livelaw.in
- economictimes.indiatimes.com
- www.business-standard.com
- www.pib.gov.in